



The Barge People

McDONOUGH MARINE SERVICE

***1750 Clearview Parkway
Metairie, Louisiana 70001
phone (504) 780-8100
fax (504) 780-8200***

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U. S. Department of Transportation, Room PL-401
Docket Management Facility (USCG-2003-14472/MARAD-2003-15171)
400 Seventh Street, S.W.
Washington, DC 20590-0001

RE: Dockets USCG 2003-14472 / MARAD 2003-15171

Gentlemen:

I appreciate the opportunity to comment on the Joint Notice for Proposed Rulemaking (JNPR) from the Coast Guard and MARAD regarding changes to the Lease Financing Regulation in the Coast Guard Authorization Act of 1996.

McDonough Marine Service is a barge chartering company, based in Louisiana, which operates a fleet of approximately 700 barges domestically. All of these vessels are Jones Act compliant. They range from typical river hopper barges to both inland and ocean type deck barges and range in size from 60' x 20' x 5' to 400' x 100' x 20'. Our area of operations encompass the East and Gulf Coasts and all of the inland waterways outside of the West Coast, in addition to foreign operations. Our company employs approximately 33 people.

Our company was founded in 1945 and has been a staunch supporter of the Jones Act. In the last 10 years, we have invested over \$100,000,000 to construct approximately 280 barges to operate in Jones Act trades. The protections afforded by the Jones Act are extremely important to our company. The cost of new construction at domestic shipyards is high, especially compared to construction costs at foreign yards. The operational and preferential tax advantages that can be offered by foreign owners, the lease financing entity, creates unfair competitive advantages against our company.

We appreciate the changes Coast Guard has made in their final rule published on February 4, 2004. We view this to be a major step in removing certain loopholes in the Foreign Lease Financing provisions that created the possibility of ceding control of U.S. flag vessels to foreign vessel owning/operating companies and threatened the substantial investments made by our company by unfair competition.

We agree with and support the more detailed comments offered by both the American Waterways Operators and the Maritime Cabotage Task Force regarding the changes being made to the Foreign Lease Financing rules. While we do not intend to provide detailed comments, we do offer the following important highlights.

We support Alternate 2 in the JNPR to prohibit charter-back arrangements, except for certain proprietary cargos. We do feel MARAD should be tasked with the review of all such requests for such exceptions to ensure proper administration of the new regulation.

We further support a maximum three year limit on any vessels which have been documented under the grandfather provisions of the current revised rules. This should allow those vessels ample time to be brought into compliance with the new regulation.

Given the tremendous work load of both Coast Guard and MARAD, we support a provision that allows the use of additional resources, including third party contractors, to review applications for documentation of vessels under these provisions. Coast Guard and MARAD must create the procedures to properly analyze such applications to prevent further incursions into Jones Act trades. Foreign lease arrangements are complicated and deserve proper analysis to protect all parties affected. As part of the process, these applications should be available for public comment, to allow input from sources within our industry of the validity or impact of such requests, before any final decisions are made.

We appreciate this opportunity to have offered these comments on the JNPR. We commend both Coast Guard and MARAD for their efforts to address the loopholes created in the original Lease Finance provisions in the Coast Guard Authorization Act of 1996. We have been involved in the process of working for these changes for a number of years because of the direct impact our company would have experienced without them. We believe it is vital to the U.S. maritime community and to our company that the above further changes be adopted.

Sincerely,

David C. Hanby, Jr.

David C. Hanby, Jr.
President & COO

DCHjr/cb